UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,982	08/29/2003	Nadi Sakir Findikli	PU02 0208US1.39	1981

54494   7590   08/03/2010
MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER
BALAOING, ARIEL A

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
08/03/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte NADI SAKIR FINDIKLI and DANIEL PAUL HOMILLER

_____

Appeal 2009-004809
Application 10/604,982
Technology Center 2600

_____

Before, ROBERT E. NAPPI, JOSEPH F. RUGGIERO, and
THOMAS S. HAHN, *Administrative Patent Judges.*

NAPPI, *Administrative Patent Judge.*

DECISION ON APPEAL[1]

_____

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1-3, 5-11, 16-20, 26-27, 29-33, 36-40, and 43-44.[2] We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

The invention is directed to a method and apparatus for registering software modules located in mobile devices by detecting access of the module, compiling data associated with the module, and sending the data to a registration system associated with the module. *See* Spec: 1-6. Claim 1 is representative of the invention and reproduced below:

> 1. A method of registering a licensed software package in a mobile device, the method comprising:
>
> detecting the licensed software package in a processing platform in the mobile device being initially accessed by a user of the mobile device;
>
> collecting module parameters, the module parameters comprising at least a module identifier;
>
> assembling a registration message based on the detecting of the licensed software package being initially accessed, the registration message comprising at least the module identifier; and
>
> sending the registration message from the mobile device to a module registration system corresponding to a destination address stored in the mobile device while allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user of the mobile device.

---

[2] Claims 12-15, 22-25, and 41-42 were cancelled in response to the Non-Final Office Action, mailed August 9, 2005. Claims 4, 21, 28, and 34-35 were cancelled in response to the Final Office Action, mailed January 13, 2006.

REFERENCES

Freese	US 5,148,472	Sep. 15, 1992
Colvin	US 2002/0162016 A1	Oct. 31, 2002
Hurst	US 2003/0224823	Dec. 4, 2003 (filed May 30, 2002)

REJECTIONS AT ISSUE

Claims 1-3, 5-6, 8-11, 16-20, 26-27, 29-30, 32-33, 36-39, and 43-44 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hurst in view of Colvin. Ans. 3-11.

Claims 7, 31, and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hurst in view of Colvin and Freese. Ans. 11-12.

ISSUES

35 U.S.C. § 103(a) rejections

Claims 1-3, 5-6, 8-11, 16-20, 26-27, 29-30, 32-33, 36-39, and 43-44

Appellants argue on pages 4-6 of the Appeal Brief that the Examiner's rejection of claims 1-3, 5-6, 8-11, 16-20, 26-27, 29-30, 32-33, 36-39, and 43-44 is in error. We select independent claim 1 as representative of the group comprising claims 1-3, 5-6, 8-11, 16-20, 26-27, 29-30, 32-33, 36-39, and 43-44 since Appellants do not separately argue these claims with particularity. *See* 37 C.F.R. § 41.37(c)(1)(vii). Appellants argue that Hurst in view of Colvin does not disclose a registration process that is substantially transparent to the user by allowing use of the licensed software package without permission. App. Br. 5.

Thus, with respect to claim 1, Appellants' contention presents us with the issue: Did the Examiner err in finding that Hurst in view of Colvin discloses allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user?

Claims 7, 31, and 40

Appellants argue on page 6 of the Appeal Brief that the Examiner's rejection of claims 7, 31, and 40 is in error for the same reasons as indicated for claim 1. Thus, the issue before us is the same as discussed above with respect to claim 1.

FINDINGS OF FACT (FF)

Hurst

1. Hurst discloses over the air (OTA) activation of secure content in response to an attempt to access the secured content. Pg. 1, ¶ [0009].

2. The OTA activation can occur either automatically or semi-automatically. Automatic activation occurs in two ways. The first only requires the user to agree to use the content. The second only requires the user to power on the device. Pg. 5, ¶ [0048].

Colvin

3. Colvin discloses a system that prevents unauthorized use of software. Pg. 1, ¶ [0014].

4. The system allows software registration and receipt of an authorization code to be performed either manually or automatically. Automatic communication of information is performed without user intervention. Pg. 3, ¶ [0029].

5. An initial password is provided and/or the software is allowed to operate for an initial period of time to allow for receipt of a subsequent password. Pg. 4, ¶ [0035].

6. In order for the software to remain operational, the subsequent password or authorization code may be provided to the software automatically and without any user intervention. Pg. 4, ¶ [0036].

ANALYSIS

35 U.S.C. § 103(a) rejections

Claims 1-3, 5-6, 8-11, 16-20, 26-27, 29-30, 32-33, 36-39, and 43-44

Appellants' contentions have not persuaded us of error in the Examiner's rejection of claim 1. Claim 1 recites "allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user of the mobile device." Appellants argue that Hurst discloses activating content rather than registering content, as required by claim 1. App. Br. 5. However, the Examiner finds that Appellants' registration process is simply a way to authenticate an activation request. Ans. 13. Therefore, the Examiner finds that Hurst's authentication process is the same as Appellants' registration process. Ans. 13. Since this finding is not disputed and no evidence is provided by Appellants, we do not find Appellants' argument to be persuasive.

Additionally, Appellants' argue that in order to activate content, the user must agree to the use of the content and, therefore, the process is not transparent to the user. App. Br. 5. We disagree because Appellants do not consider all embodiments of the primary reference.

5

Hurst discloses a system in which the activation of content can be activated either automatically or semi-automatically. FF 2. Hurst discloses two different embodiments for the automatic activation of content. FF 2. The first automatic activation occurs when a user accesses the content and agrees to use the content. FF 2. The second automatic activation occurs when a user powers on the user's mobile device that contains the content. FF 2. While, it is arguable that the first automatic activation embodiment requires the user to perform an additional step, the second automatic activation embodiment only requires the user to turn on the mobile device. Therefore, in one of Hurst's embodiments, a completely automatic process for activating content is disclosed. As such, Appellants' arguments are not found to be persuasive.

Lastly, Appellants argue that neither reference discloses allowing the user to use the licensed software without permission while the software is being registered. App. Br. 5. Appellants argue that in order for software to become partially operable, Colvin requires a user to enter an authorization code. App. Br. 5-6. We disagree.

Colvin discloses initially providing a password or allowing operation of software without a password for a certain time period. FF 5. After that time period, Colvin discloses a system that automatically communicates an authorization code or password to the software to allow the software to remain operational on a user's computer. FF 6. Therefore, the user may use the software prior to its registration and Appellants' arguments are not found to be persuasive. As such, we sustain the Examiner's rejection of claim 1

and claims 2-3, 5-6, 8-11, 16-20, 26-27, 29-30, 32-33, 36-39, and 43-44 that have been grouped with claim 1.

Claims 7, 31, and 40

Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 7, 31, and 40. Appellants' arguments regarding these claims are not persuasive for the reasons discussed *supra* with respect to claim 1. Therefore, we sustain the Examiner's rejection of claims 7, 31, and 40.

CONCLUSIONS

The Examiner did not err in finding that Hurst in view of Colvin discloses allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user.

SUMMARY

The Examiner's decision to reject claims 1-3, 5-11, 16-20, 26-27, 29-33, 36-40, and 43-44 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

AFFIRMED

tkl

MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK, NC 27709